



President Juncker  
European Commission  
Rue de la Loi 200  
1049 Brussels

July 24, 2015

**Delivering the Digital Single Market**  
**in Partnership with the Film and Audiovisual Sector in Europe**

Dear President Juncker,

We, the undersigned organisations, represent film and TV producers, world sales companies, distributors, and publishers active in the film and audiovisual landscape in Europe. Our members are ready to contribute to the achievement of the Digital Single Market Strategy (“DSM”) adopted by the European Commission on 6th May, 2015, and to contribute further to economic growth and job creation in Europe.

In your elaboration of the specific actions and legislative proposals to implement the DSM, we urge you to pursue the best conditions for a strong, sustainable film and audiovisual sector in Europe, preserving the cornerstone of a sector which generated a contribution of EUR 107 billion to the European economy and 1.2 million jobs in 2012<sup>1</sup>.

Europe’s policy framework should encourage creativity, promote investment in the production and distribution of creative content, and ensure the best possibilities for recoupment of investment and a fair and adequate reward to all relevant right holders and parties, by:

- **Preserving commercial freedom** to organise the financing and future distribution of each film and audiovisual content so that producers are able to raise the necessary financing of films and television series and ensure their best possible promotion and distribution in each individual market. The freedom to finance and license works in a mix of different models, partnering with future distribution partners and platforms of different sizes, scope and geographical footprint, depending on diverse consumer tastes and preferences, enables a virtuous circle of investment in highly skilled jobs and cultural diversity. Proof of the

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<sup>1</sup> <http://www.createurope.eu/en/wp-content/uploads/2014/11/study-full-en.pdf>

indispensable value of that freedom is the unparalleled success of European films and TV drama in various festivals and with audiences around the globe. Most of those films and audiovisual content were at least partially financed through territorial co-production and/or pre-sales agreements with a wide diversity of future local distribution partners. We have gathered a few examples in the attached compilation, illustrating that the contribution to the total film and/or television production budget from co-production and/or pre-sales of future *exclusive* distribution rights for all channels (theatrical, video (physical and online) and television) ranges from approximately 30 to 47 %. The overall cost of acquiring distribution rights for any one territory is often amortised across different distribution channels (cinema/physical carriers/online/television) and splitting the different distribution rights by applying different legal regimes to different types of rights would fundamentally unsettle both the financing and the distribution of films.

- **Promoting diverse and multiple distribution channels and platforms**, thus promoting more choice for European audiences. The flexibility in the EU copyright system has enabled the launch of more than 3,000 licensed online audiovisual services as reported by the European Audiovisual Observatory in 2013<sup>2</sup>. This platform diversity is driving change and innovative solutions so European audiences can access and watch film and audiovisual content in the widest possible range of options. Preserving cultural diversity is a key objective of European public policy and the European Union should celebrate and champion this diversity – both in production and in distribution - and not impose business models which would favor a small number of multinational platforms. Europe stands to lose in terms of choice and diversity of content, rather than gain more options.
- **Embracing diverse audiences** by acknowledging that treating European audiences as a “digital single market” and creative works as mere commodities fundamentally ignores the creative and commercial realities of the EU cultural marketplace. Successful online licensing and distribution in that vibrant market depends on offering a wide range of attractive film and television content in a manner which is linguistically relevant and culturally attractive to the diverse tastes and preferences of local audiences – and in some instances, actually creating the potential audience for a film or audiovisual content, especially outside its home market.
- **Providing European audiences and businesses with the best digital Infrastructure.** Delivering on the DSM promises means ensuring that we as an industry can deliver compelling content and attractive services to European audiences with high penetration of the relevant hardware, and optimal broadband infrastructure and speed. Attractive taxation, secure and reliable micropayment facilities, and appropriate rules on the protection of consumers and minors are key to securing consumer confidence and successful

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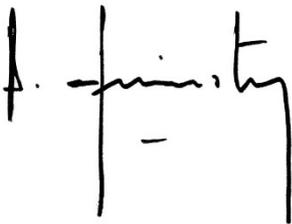
<sup>2</sup> <http://www.obs.coe.int/industry/video>

audience-building across Europe. The degree of availability of illegal content and services also plays an important role in the development of a strong, sustainable audiovisual online offer.

We are ready to continue our ongoing dialogue with you and your services and to make our contribution to the achievement of the DSM for Europe.

We are ready to meet with you and your services at your convenience and of course also to provide additional examples and information which may assist you in your work in this field.

Yours sincerely,



*Benoît Ginisty, Director General - **FIAPF** – International Federation of Film Producers Associations – [www.fiapf.org](http://www.fiapf.org)*



*Jean Prewitt, CEO - **IFTA** - Independent Film & Television Alliance – [www.ifta-online.org](http://www.ifta-online.org)*



*Charlotte Lund Thomsen, Legal Counsel to the IVF - **IVF** – International Video Federation - [www.ivf-video.org](http://www.ivf-video.org)*



*Stanford McCoy, President and Managing Director MPA EMEA - **MPA** - Motion Picture Association [www.mpaa.org](http://www.mpaa.org)*

Cc: Pauline Rouch